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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,627	02/20/2004	Volker Braun	Q79775	4136
72875 7590 06/04/2008 SUGHRUE MION, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037				
EXAMINER PEACHES, RANDY				
ART UNIT 2617		PAPER NUMBER		
NOTIFICATION DATE 06/04/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@sughrue.com
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Office Action Summary

Application No.

10/781,627

Applicant(s)

BRAUN ET AL.

Examiner

RANDY PEACHES

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6 and 7 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. **Claims 8-10** are objected to because of the following informalities:

Regarding **claim 8**, the Examiner is requesting that the Applicant amend the claim to clearly teach that the claimed program product is "included" on a digital storage medium.

The Examiner suggests the following amendment to claim 8 in order to place the application in better condition for allowance:

A computer program product, ***included on a digital storage medium***, for controlling transmission of data over second channels of a telecommunication system having first and second channels, the first channels having a pre-defined grade of service and the second channels having a variable grade of service, comprising program means for performing :

- entering data indicative of an actual load of a transmit power amplifier;
determining a share of the load which is due to the transmission over the second channels;
- determining a share of the load due to the transmission over the first channels by subtracting the share of the load which is due to the transmission over the second channels from the actual load of the transmit power amplifier;
- determining a difference between a maximum load and the share of the load due to the transmission over the first channels; and

- controlling the transmission over the second channels on the basis of the difference.

Regarding both claim 9 and 10, the Examiner is requesting that the Applicant amend the claims to clearly teach that the difference between a maximum load and the ***share of the load due to the transmission over the first channel***, as claimed in the independent claims 1 and 8.

The Examiner suggests the following amendments to claims 9 and 10 in order to place the application in better condition for allowance::

Claim 9 -

A base station for transmitting of data over first and second channels, the first channels having a predefined grade of service and the second channels having a variable grade of service, the base station comprising:

- means for determining an actual load of a transmit power amplifier,
- means for determining a share of the load which is due to the transmission over the second channels,
- means for determining a share of the load which is due to the transmission over the first channels by subtracting the share of the load which is due to the transmission over the second channels from the actual load of the transmit power amplifier,
- means for determining a difference between a maximum load and the ***share of the load due to the transmission over the first channel***; and

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- means for controlling the transmission over the second channels on the basis of the difference.

Claim 10 -

A wireless cellular telecommunication network for transmitting of data over first and second channels, the first channels having a predefined grade of service and the second channels having a variable grade of service, the telecommunication network comprising:

- means for determining an actual load of a transmit power amplifier,
- means for determining a share of the load which is due to the transmission over the second channels,
- means for determining a share of the load which is due to the transmission over the first channels by subtracting the share of the load which is due to the transmission over the second channels from the actual load of the transmit power amplifier,
- means for determining a difference between a maximum load and the ***share of the load due to the transmission over the first channel***; and,
- means for controlling the transmission over the second channels on the basis of the difference.

Appropriate correction is required.

Allowable Subject Matter

2. ***Claims 1-4, 6 and 7*** are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDY PEACHES whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy Peaches/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617